

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services – Treasuries and Accounts (Gazetted) Services – Sri N.Mohan Rao, Joint Director, O/o Director of Treasuries and Accounts, Hyderabad – Restoration of seniority in the category of Joint Director – Orders – Issued.

FINANCE (ADMN.I.) DEPARTMENT

G.O.Ms.No. 205

Dated: 05-08-2009

Read the following:-

1. G.O.Rt.No.240, Finance (Admn.I) Department dt.05-02-2003.
2. G.O.Rt.No.1998, Finance (Admn.I) Department dt.18.08.2003.
3. G.O.Rt.No.2051, Finance (Admn.I) Department, dt.26-08-2003.
4. G.O.Rt.No. 2232, Finance (Admn.I) Deptt, dt.17-06-2006
5. Representation of Sri N.Mohan Rao, Joint Director dated 26-08-2008.
6. DTA Lr.No.C1/15436/2008, dated 06-09-2008.
7. Memo.No.1252-C/386/A2/Admn.I/2008, dated 26-11-2008.
8. DTA Lr.No.C1/15436/2008, dated 07-02-2009 along with representation of Sri K.Bheema Reddy, Joint Director, dt.30-12-2008.
9. Govt. Memo.No.1252-C/386/A2/Admn.I/2008, dated 22-04-2009.
10. DTA Lr.No.C1/15436/2008, dated 29-04-2009.
11. GA (DPC.II) Department's U.O. Note No.17062/DPC.II/2009-2 dated 20-7-2009 along with Minutes of the Review DPC held on 18-7-2009.

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ORDER:

In the G.O.1st read above, the panel of Deputy Directors/Chief Accounts Officers for promotion to the category of Joint Director in the A.P. Treasury and Accounts Service for the panel year 2002-2003 was issued placing Sri K.Bheema Reddy at Sl.NO.2, whereas Sri N. Mohan Rao stands at Sl.No.3.

2. Government have issued orders vide G.O.Ms.No.5, Social Welfare Deptt., dt.14.2.2003 for implementation of rule of reservations in promotions in favor of S.Cs & S.Ts. As the panel was not effected, Government had decided for implementation of Rule of reservation in promotions from the category of Deputy Directors/Chief Accounts Officers to the category of Joint Director in terms of orders issued by the Government vide G.O.Ms.No.2, Social Welfare (RoR) Department, dated 09.01.2004 and reviewed the panel of Deputy Directors/Chief Accounts Officers for promotion to the category of Joint Director in the A.P. Treasury and Accounts Service for the panel year 2002-2003. Among, 4 vacancies available as on that date, SC (W) candidate had to fill up the 2nd vacancy in roster of 100 points. As no eligible candidate belonging to SC (W) was available, the name of Sri N.Mohan Rao, Deputy Director (Who belongs to SC) was considered against the 2nd point SC(W) and included in the panel above Sri K.Bheema Reddy vide G.O. 2nd read above. Sri N.Mohan Rao, Deputy Director was promoted to the category of Joint Director vide G.O.3rd read above.

3. Aggrieved with the orders of Government, Sri.K.Bheema Reddy, Joint Director has represented that as per the orders issued in G.O.Ms.No.100, Finance (SMPC) Department dated 18-02-2003 the sanctioned cadre strength of Joint Director is (7) only (4 Permanent + 3 temporary) and as per the guide lines issued in G.O.Ms.No.5, Social Welfare Department, dt.14.2.2003 once the adequacy is achieved, the rule of reservation in respect of SC & ST need not be followed. As far as adequate representation of SC Officers in the category of Joint Director is concerned, as per the orders issued G.O.Ms.No.5, Social Welfare (RoR Department, Dt.14.2.2003, G.O.Ms.No.21, Social Welfare (RoR) Department, Dt.18.03.2003, G.O.Ms.No.2, Social Welfare (RoR) Department, Dt.9.1.2004 and G.O.Ms.No.76, Social Welfare (RoR) Department, Dt.19.10.2004, the adequate representation of SC according to the cadre strength of (7) Joint Directors is (1) one only. Sri G.Guru Raju, who belongs to SC, was working at that time as Joint Director, as such the condition of adequate representation was fulfilled prior to the panel year 2002-2003, and therefore the rule of reservation need not be followed for the panel year 2002-2003 in the category of Joint Director of Treasuries.

4. Government had examined the representation of Sri K.Bheema Reddy, Joint Director and after following due procedure i.e. by issuing a notice to the affected person Sri N.Mohan Rao, Joint Director and after examination of his explanation placed the matter before the Review DPC. The Review DPC, after making an overall assessment in all aspects and also keeping in view of the reservation in promotions for S.C/S.T. candidates considered that Sri K.Bheema Reddy is suitable for promotion to the category of Joint Director of Treasuries and Accounts and recommended to place Sri K.Bheema Reddy above Sri N.Mohan Rao in the panel year 2002-2003. Accordingly, Sri K.Bheema Reddy had given notional promotion on par with Sri N.Mohan Rao, Joint Director w.e.f.29.8.2003 i.e. the date of assuming charge of Sri N.Mohan Rao in the category of Joint Director and restore his seniority in the panel year 2002-2003 by placing his name above Sri N.Mohan Rao (Sl.No.2 in the panel) in the category of Joint Director vide G.O.4th read above.

5. In the reference 5th read above, aggrieved with above orders of the Government, Sri N.Mohan Rao made a representation to the Government stating that the said revision of panel is illegal and contrary to the provisions of the Rule of Reservation in promotions laid down in Article 16 (4A) of the Constitution of India and requested to consider to restore his seniority and place his name above the name of the Sri K.Bheema Reddy in the panel of Deputy Directors/Chief Accounts Officer for promotion to the category of Joint Director for the year 2002-2003.

6. The representation of Sri N.Mohan Rao, Joint Director was examined in consultation with General Administration (Ser.C) Department and SW (ROR) Department and after following due procedure under Rule 24 of A.P. State and Subordinate Service Rules, 1996 i.e. by issuing a notice to the affected person K.Bheema Reddy, Joint Director.

7. Sri K.Bheema Reddy, Joint Director, in his representation dt. 30-12-2008 has requested not to review the panel of Deputy Directors/CAOs for promotion to the category of Joint Director for the year 2002-2003 as there is no mention in the policy G.Os. about the working strength and the proposed review is contrary to Government Orders. The representation of Sri K. Bheema Reddy, Joint Director has been examined in detail and it is found that his contentions have no merit consideration due to following reasons.

- a) Government have incorporated the following provisions by amending the policy in G.O.Ms.No.5, Social Welfare (RoR.I) Department, dated 14-02-2003 vide G.O.Ms.No.26, Social Welfare (RoR.I) Department dated 20-02-2009.

“(h) For the purpose of achieving adequacy of SCs/STs in services, the Rule of Reservation in making in charge arrangements in exigencies of administration for holding higher promotional posts shall be followed, whenever such arrangements are made after obtaining relaxation of Rule 10 (h) of A.P. State and Subordinate Services, 1996”

Note:-The in-charge arrangements for holding higher promotional posts/adhoc promotions already made by observing the rule of reservation in favour of SCs/STs shall be continued to achieve the objectives of implementation of rule of reservation in favour of Scheduled Castes/Scheduled Tribes in services”

- b) The Supreme Court of India in P.S.Mohal and others Vs. Union of India and others, (1984(2) SLR page 498) inter-alia held that:

“It is therefore obvious that if a vacancy arises on account of an incumbent going on leave or for training or on deputation for a short period, it would not be attracted in case of such a vacancy. But where a vacancy arises on account of the incumbent going on deputation for a reasonably long period and there is no reasonable likelihood of the person promoted to fill such vacancy having to revert, the vacancy would be subject to the quota rule, because it would be a regular vacancy in the post of Executive Engineer who would continue as such without reversion until confirmed and his promotion would, therefore, be by way of recruitment to the cadre of Executive Engineers. Of course it should be made clear that the vacancy which attracts the applicability of the quota rule, is the vacancy in the post included in the sanctioned strength, of the cadre of Executive Engineers and not vacancy in a deputation post. There may be a vacancy in a deputation post in another department or organization and an Executive Engineer holding a post included in the sanctioned strength of the cadre of Executive Engineers may be sent to such deputation post, but the vacancy, which would call for application of the quota rule in such a case would be the vacancy arising in the post of Executive Engineer with in the cadre by a reason of the incumbent of that post going to the deputation post not vacancy in the deputation post which would be filled up by the Executive Engineer going on deputation. It is therefore, apparent that what has to be considered for the applicability of the quota rule is a vacancy in a post included in the sanctioned strength of cadre of Executive Engineers and sanctioned strength, which has to be taken into account, is not merely the sanctioned strength of the cadre of Executive Engineers in the Central Engineering Service, Class-I may include not only posts of Executive Engineers in the Central Public Works Department but also posts of Executive Engineers in other departments and organizations”.

- c) The same view was upheld by the Hon'ble Supreme Court of India in D.Ganesh Rao Patnaik Vs. State of Jharkhand, reported in 2005 (6) SLR 425.
- d) In view of the legal position stated above, it is clear that where a vacancy arises on account of deputation of the incumbent for a long period such vacancy can be included in the cadre strength.
- e) The following is the total working strength for Joint Director during the panel year 2002-03.

S.No	Name of the Joint Director	Since		Remarks
1	Sri G.Guru Raju	02-09-1993	Regular post	T&A Department
2	Sri N.C.Nagarjuna Reddy	05-08-1993	Deputation	Registration & Stamps
3	Sri D.Tavudu	13-10-1995	Deputation	Rural Development
4	Smt.K.Kanakavalli	04-03-1997	Deputation	Finance Department
5	Sri G.Veeranna	01-03-1997	Regular post	T&A Department
6.	Sri G.P.Prasada Rao	20-08-1998	Regular post	T&A Department
7	Sri K.V.Ramam (Retd.) 30-9-2003	05-07-1997	Regular post	T&A Department
8	Sri C.S.Rammohan Rao	17-08-1998	Regular post	T&A Department
9	Sri G.Vijay Kumar	17-02-2001	Regular post	T&A Department
10	Sri K.Venkateswara Rao	02-02-2002	Deputation	CM Office (Secretariat)
11	Sri L.Subuddi	16-09-2002	Deputation	APVVP

- f) Thus, it is clear that the Rule of Reservation shall be followed by taking into consideration not only the sanctioned cadre strength but also working strength of respective categories including deputations in other departments/organizations and even also for the incharge arrangements and adhoc promotions caused due to exigencies of administration. The adequacy shall be calculated by computing all these factors for implementing the Rule of Reservation for SCs/STs in promotions. There was cadre strength of 12 in the category of Joint Director during the panel year 2002-2003. Hence, the adequacy for Scheduled Castes for the panel year 2002-2003 shall be (2). Thus, one SC is shortfall for the panel year 2002-2003 as one SC candidate, Sri G.Guru Raju, Joint Director was already working as Joint Director. Therefore, it is proposed to conduct review D.P.C for the panel year 2002-2003 in respect of Sri N.Mohan Rao, Joint Director, for promotion to the category of Joint Director from the category of Deputy Director/Chief Accounts Officer on the ground of not achieving adequacy of representation for Scheduled Castes before commencement of panel year 2002-2003 by taking into consideration of the working strength for computing adequacy in rule of reservation.
- g) Therefore, the objections raised by Sri K.Bheema Reddy, Joint Director not to review the panel of Deputy Directors/CAOs for promotion to the category of Joint Director for the year 2002-2003 do not have any merit and his request has been rejected.

8. Government, after careful examination of the matter and following due procedure required under A.P. State and Subordinate Service Rules, 1996 came to a decision to review the panel for the year 2002-2003 by taking into consideration the working strength of Joint Director of Treasuries and Accounts (12) instead of sanctioned cadre strength (7) and placed the matter before DPC for review the panel 2002-2003.

9. The DPC, which was held on 18-07-2009, after making an overall assessment in all aspects and also keeping in view of the reservation in promotions for S.C/S.T. candidates and other material papers relating the issue and keeping in view the rule of reservation and working strength, recommends that the panel of Deputy Directors/Chief Accounts Officers of Treasuries and Accounts for the year 2002-03 be revised as follows for promotions to the category of Joint Director of Treasuries and Accounts, Finance Department.

S/Sri/Smt.

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|---|---------------------------|----------------|
| 1 | K.Lakshmi Narayana Murthy | Roster Point-1 |
| 2 | N.Mohan Rao -SC | SC (W) RP-2 |
| 3 | K.Bheema Reddy | |
| 4 | K.S.R.C.Murthy | RP-4 |

10. Government, after careful examination of the matter, hereby approve the above recommendations of the DPC and restore the original seniority of Sri N. Mohan Rao, Joint Director by placing his name above Sri K.Bheema Reddy, Joint Director in the category of Joint Director in the panel year 2002-2003.

11. The Director of Treasuries and Accounts shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**SHAMSHER SINGH RAWAT
SECRETARY TO GOVERNMENT (FP)**

To

The individuals through the Director of Treasuries and Accounts, Hyderabad.

The Director of Treasuries and Accounts, Hyderabad.

SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER